

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GREGORY SMITH,

Plaintiff,

vs.

SUPERINTENDENT CLARK, DISTRICT  
ATTORNEY OF ALLEGHENY COUNTY,  
PENNSYLVANIA, AATTORNEY  
GENERAL OF THE STATE OF  
PENNSYLVANIA,

Defendants.

2:18-CV-01661-RJC

**ORDER**

AND NOW, this 22nd day of August 2022, after Petitioner, Gregory Smith, filed a Petition for Writ of Habeas Corpus (ECF No. 8), and after a Report and Recommendation was filed by Chief Magistrate Judge Cynthia Reed Eddy recommending the dismissal of the petition because none of Petitioner's asserted claims were cognizable (ECF No. 31), and having received no objections, the Court hereby ADOPTS Chief Magistrate Judge Eddy's Report and Recommendation (ECF No. 31) as its Opinion.

IT IS HEREBY ORDERED that Petitioner's Petition for Writ of Habeas Corpus (ECF No. 8) is DISMISSED WITH PREJUDICE;

IT IS FURTHER ORDERED that a certificate of appealability is DENIED because reasonable jurists could not conclude that a basis for appeal exists.<sup>1</sup> Petitioner has failed to allege

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<sup>1</sup> A certificate of appealability may issue only upon “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). A petitioner must “demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Lambert v. Blackwell*, 387 F.3d 210, 230 (3d Cir. 2004). The Court agrees with Chief Magistrate Judge Eddy that there is no probable cause to issue such a certificate in this action.

the denial of a constitutional right that would entitle him to habeas relief, let alone demonstrate a substantial showing of the denial of that right;

IT IS FURTHER ORDERED THAT the Clerk of Court shall mark this case as CLOSED;  
and

IT IS FURTHER ORDERED that, pursuant to Federal Rule of Appellate Procedure 4(a)(1), if Petitioner desires to appeal from this Order, he must do so within thirty (30) days by filing a notice of appeal as provided in Federal Rule of Appellate Procedure 3.

BY THE COURT:

/s/ Robert J. Colville  
ROBERT J. COLVILLE  
United States District Judge

Cc: GREGORY SMITH  
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Albion, PA 16475-0002  
(via U.S. First Class Mail)

Rusheen R. Pettit Office of the District Attorney  
(via ECF electronic notification)